

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC**

In the Matter of:		
Request for Review and Waiver)	
of the Decision of the)	
Universal Service Administrator by)	
)	
Wahluke School District #73)	CC Docket No: 02-6
BEN Number: 145532)	
)	File No. SLD- 929160
Schools and Libraries Universal Service)	
Support Mechanism)	
)	
Wireline Competition Bureau)	

INTRODUCTION

Section 54.719(c) of the Commission's rules provides that any party seeking a waiver of Commission rules must seek relief directly from the Commission.¹ Wahluke School District #73 hereby appeals the current action taken by USAC regarding the District's Priority One funding for 2013.

BACKGROUND

On December 27, 2013, Wahluke School District #73 received six funding commitments from the Schools and Libraries Division (SLD) for Funding Year 2013, all located on Application No. 929160. According to program rules, Wahluke School District #73 had 120 days from the date of the FCDL to file their Form 486.² Due to a recent change in E-rate personnel, Wahluke School District #73 did not understand the 120 day mandate. During the 120 day window, Wahluke School District #73 was entrenched in the Funding Year 2014 application process. As a result of the aforementioned conditions, the six FRNs for application No. 929160 were not submitted on the Form 486 within the allotted time for this application.

It was not until later that Wahluke School District #73 realized their mistake and on October 6, 2014, they filed a Form 486 for the Funding Year 2013 funding requests. This Form 486 was processed and accepted by the SLD October 9, 2014. The SLD then adjusted the Service Start Date on the six FRNs to June 8, 2014, and adjusted the funding commitment amounts to the following:

¹ 47 C.F.R. § 54.719(c).

² This made the due date for the Form 486 April 26, 2014.

Svc Cat	Service Provider	FRN	Requested	Committed
T	AT&T Corp.	2537935	\$6,110.10	\$509.17
T	Western Sub - RSA Limited Partnership	2537937	\$14,117.22	\$1,176.43
T	Computer 5, Inc.	2537947	\$16,345.91	\$1,362.16
T	CenturyLink Corporation (FKA Embarq)	2537948	\$14,480.86	\$1,206.74
T	Western Sub - RSA Limited Partnership	2537949	\$8,392.46	\$699.37
T	Western Sub - RSA Limited Partnership	2537950	\$5,670.11	\$472.51
			\$65,116.66	\$5,426.38

All totaled, the SLD has reduced the funding commitment for Wahluke School District #73 by \$59,690.28. The total amount represents a reduction in the Telecommunications services Wahluke School District #73 is receiving.³

Even though it is not in the CIPA legislation, the Form 486 used by the SLD requires applicants to make some kind of CIPA certification even for telecommunications funding requests. The Form 486 instructions state, “Although CIPA requirements do not apply to Telecommunications Services, Billed Entities applying only for Telecommunications Services must, in general, still certify on a Form 486 that CIPA requirements do not apply.”⁴

DISCUSSION

The Commission may waive any provision of its rules on its own motion and for good cause shown.⁵ A rule may be waived where the particular facts make strict compliance inconsistent with the public interest.⁶ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁷ In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.⁸ The SLD requirement that an applicant certify CIPA does not apply to a telecommunications request goes above and beyond what is required by CIPA. Since certification of a telecommunications request is not required by CIPA, it is a requirement which can be waived by the FCC.

³ The Form 486 Notification Letter received by Wahluke School District #73 from the SLD is attached as Exhibit A.

⁴ See Form 486 Instructions at II. Impact of CIPA Requirements on Form 486, Dated September 2002.

⁵ 447 C.F.R. §1.3.

⁶ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (Northeast Cellular).

⁷ *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), affirmed by *WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972).

⁸ *Northeast Cellular*, 897 F.2d at 1166.

In 2008 the Commission released the *Alcona County Library Order*, granting 34 appeals of decision by the Universal Service Administrative Company (USAC). Again, in 2010 the Commission granted 25 appeals of decisions by USAC in the *Children of Peace Order*. Both cases are in keeping with the established precedent set by the *Alaska Gateway Order*, in which the Commission stated that the Form 486 120 day deadline can be waived for internet access and telecommunications requests. Additionally, by missing the Form 486 deadline for an application only containing telecommunications requests, Wahluke School District #73 missed a USAC procedural deadline and did not violate a Commission rule. Wahluke School District #73 is solely appealing telecommunications requests.

Wahluke School District #73 requests a waiver of the 486 deadline for the 6 Telecommunications funding requests the SLD adjusted, due to the fact CIPA does not apply to telecommunications funding requests. CIPA specifically states:

(ii) Applicability The prohibition in clause (i) shall not apply with respect to a school that receives services at discount rates under paragraph (1) (B) only for purposes other than the provision of Internet access, Internet services, or internal connections.⁹

SUMMARY

Wahluke School District #73 respectfully requests the Commission to waive the Form 486 120 day deadline for the following 2013 Funding Requests: FRNs 2537950, 2537935, 2537949, 2537937, 2537948 and 2537947. In addition, the District respectfully requests that the funding reductions to the FRNs at issue be reinstated.

Respectfully,



Arthur de Victoria
Director of Technology
Wahluke School District #73
411 E. Saddle Mountain Drive
Mattawa, WA 99349
509-932-4565

⁹ See 47 U.S.C. § 254 (h)(5)(A)(ii).

Exhibit A



Universal Service Administrative Company
Schools & Libraries Division

FORM 486 NOTIFICATION LETTER
(Funding Year 2013: 07/01/2013 - 06/30/2014)

October 16, 2014

Arthur de Victoria
WAHLUKE SCHOOL DISTRICT 73
PO Box 907
Mattawa, WA 99349

Re: Form 486 Application Number: 1045919
Applicant's FCC Form 486 Identifier: WL13-48601

This letter is to notify you that the Universal Service Administrative Company (USAC) has received and accepted an FCC Form 486, Receipt of Service Confirmation Form, from you. This notification is to confirm the information that you provided. This information is being shared with the service provider whose Service Provider Identification Number (SPIN) you identified on each Funding Request Number (FRN).

You may be receiving this letter to revise or correct a previous Form 486 Notification Letter. The information contained in this letter supersedes any previous notification you may have received, including, but not limited to, a previously adjusted Service Start Date or previously reduced funding commitment.

An explanation of the data provided in our letter reports is in the Guide to USAC Letter Reports posted in the Reference Area of our website. Complete program information, including invoice deadlines, is also posted on our website. You may also contact our Client Service Bureau toll-free by phone at 1-888-203-8100, by email using the Submit a Question link on our website, or toll-free by fax at 1-888-276-8736.

NEXT STEPS

Discuss with your service provider whether you would like discounts on your bills or to pay your bills in full and be reimbursed for discounts.

Applicants invoice USAC before the invoice deadline using the applicant invoice [FCC Form 472, Billed Entity Applicant Reimbursement (BEAR) Form] for reimbursements of discounts after paying the service provider bills in full. Service providers invoice USAC using the service provider invoice [FCC Form 474, Service Provider Invoice (SPI) Form] after billing applicants for their non-discount portion. Whichever method you choose, you must pay your non-discount portion, as stated in program rules. Program rules also require that participants maintain all documentation for at least five years after delivery of discount service.

TO APPEAL THE SERVICE START DATE/FUNDING COMMITMENT CHANGE DECISION

DUPLICATE LETTER

If you wish to appeal a decision in this letter to USAC, your appeal must be received by USAC or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the letter and the decision you are appealing:
 - appellant name,
 - applicant or service provider name, if different than appellant,
 - applicant BEN and service provider SPIN,
 - FCC Form 486 Number 1045919 and FRN(s) as assigned by USAC,
 - "Form 486 Notification Letter for Funding Year 2013", AND
 - the exact text or the decision that you are appealing.
3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by the USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by the USAC's decision.
5. Provide an authorized signature on your letter of appeal.

We strongly recommend that you use one of the electronic filing options. To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org or submit your appeal using the Submit a Question feature on the USAC website. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to us by fax, fax your appeal to (973) 599-6542.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

For more information on submitting an appeal to USAC, please see Appeals in the Schools and Libraries section of the USAC website.

Schools and Libraries Division
Universal Service Administrative Company

FORM 486 NOTIFICATION LETTER REPORT
(Funding Year 2013)

Funding Request Number: 2537935
Form 471 Application Number: 929160
Service Provider Name: AT&T Corp.
Service Provider Identification Number: 143001192
Billing Account Number: N/A
Service Start Date: 06/08/2014*
Service Start Date Change Explanation: 120-DAY 486 DEADLINE
Adjusted Funding Commitment: \$509.17

Funding Request Number: 2537937
Form 471 Application Number: 929160
Service Provider Name: Western Sub - RSA Limited Partnership
Service Provider Identification Number: 143000532
Billing Account Number: N/A
Service Start Date: 06/08/2014*
Service Start Date Change Explanation: 120-DAY 486 DEADLINE
Adjusted Funding Commitment: \$1,176.43

Funding Request Number: 2537947
Form 471 Application Number: 929160
Service Provider Name: Computer 5, Inc.
Service Provider Identification Number: 143008696
Billing Account Number: N/A
Service Start Date: 06/08/2014*
Service Start Date Change Explanation: 120-DAY 486 DEADLINE
Adjusted Funding Commitment: \$1,362.16

Funding Request Number: 2537948
Form 471 Application Number: 929160
Service Provider Name: CenturyLink Corporation (FKA Embarq)
Service Provider Identification Number: 143019614
Billing Account Number: N/A
Service Start Date: 06/08/2014*
Service Start Date Change Explanation: 120-DAY 486 DEADLINE
Adjusted Funding Commitment: \$1,206.74

Funding Request Number: 2537949
Form 471 Application Number: 929160
Service Provider Name: Western Sub - RSA Limited Partnership
Service Provider Identification Number: 143000532
Billing Account Number: N/A
Service Start Date: 06/08/2014*
Service Start Date Change Explanation: 120-DAY 486 DEADLINE
Adjusted Funding Commitment: \$699.37

FORM 486 NOTIFICATION LETTER REPORT
(Funding Year 2013)

Funding Request Number: 2537950
Form 471 Application Number: 929160
Service Provider Name: Western Sub - RSA Limited Partnership
Service Provider Identification Number: 143000532
Billing Account Number: N/A
Service Start Date: 06/08/2014*
Service Start Date Change Explanation: 120-DAY 486 DEADLINE
Adjusted Funding Commitment: \$472.51